



## **UPDATE: Amendments in the Austrian nationality law, October 2009**

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In October 2009, the Austrian Parliament approved a bill amending the Asylum Law, the Aliens' Police Law, the Settlement Law as well as the Nationality Law. The new regulations have entered into force on January 1, 2010. The most significant changes are as follows:

- *Requirement of sufficient income:* Acquisition of Austrian nationality depends on proof of regular and sufficient income. In addition, applicants must not have received social welfare assistance for the last three years preceding the application for naturalisation. Since 2010, regular expenditures for rent, loan repayment, garnishment or alimony payment have to be taken into account when calculating an applicant's income level. Thus, the amendment raises the level of disposable personal income necessary for naturalisation.
- *Citizenship fraud:* The amendment introduces a new regulation. Obtaining nationality by fraud can entail a fine in the range of 1,000-5,000.- Euros or imprisonment of up to three weeks. In such cases, making use of health, accident or retirement insurance benefits or drawing social assistance shall be punished by imprisonment for up to one year. If the benefits amount to more than 3,000.- Euros, the person shall be subject to imprisonment for up to three years.
- *Adopted children:* Since 2005, foreign children adopted by Austrian nationals had to be 'settled' in Austria in order to be granted Austrian nationality. In June 2008, the Constitutional Court decided that the application of this provision to foreign children adopted by Austrian nationals who live abroad is unconstitutional as it violates the principal of equal treatment among citizens. The amendment responds to the Court's verdict by providing for an exemption from the settlement requirement if the parent(s) can prove a legal and permanent residence abroad for at least one year.
- *Citizenship test:* Since the introduction of a citizenship test in 2006, the nationality law provides for exemptions from the citizenship for persons who are permanently sick, elderly or minor children. The amendment adds now a further exemption: Foreign nationals with an Austrian school leaving certificate that includes the subject of history and civics (*Geschichte und Sozialkunde*) at least at the level of grade four of secondary school (*Hauptschule*) do not need to take the citizenship test. Thus, adults who have an Austrian school certificate are no longer subject to the citizenship test.
- *Oath of loyalty:* Successful naturalisation candidates must not only swear that they will be loyal citizens of the Republic, but since 2010 the oath also includes a commitment to the "core values of a European democratic state and society."